

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

WILLIAM DOUGLAS MITCHELL
TX-1330001-R

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DOCKETED COMPLAINT NO. 06-088
& 06-122

AGREED FINAL ORDER

On this the 29th day of FEBRUARY, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of William Douglas Mitchell, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent William Douglas Mitchell is a State Certified Residential Real Estate Appraiser, holds certification number TX-1330001-R, and has been certified by the Board during all times material to the factual circumstances of this case.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, Tex. Occ. Code Chapter 1103 (the Act), the Rules of the Board, 22 Tex. Admin. Code §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about January 27th, 2003, the Respondent appraised real property located at 3609 Raindrop Drive, Alvarado, Texas 76009 for the client GFI Mortgage ("the Raindrop property").
4. On or about December 12th, 2002, the Respondent appraised real property located at 5816 Kentucky Street, Joshua, Texas 76058 for the client GLC Financial, Inc. ("the Kentucky property").
5. On or about March 6th, 2006, the Complainant, Mark Liley, Assistant Vice President and Chief Appraiser for Flagstar Bank, filed a complaint with the Board pertaining to the Raindrop property. The complaint alleged that the Respondent had produced an appraisal report for the Raindrop property that was inflated. On or about May 16th, 2006, the Complainant Jack McComb filed a staff-initiated complaint with the Board pertaining to the Kentucky property. The complaint was based upon information from Fannie Mae, which alleged that the Respondent had produced an appraisal report for the Kentucky property that contained potential violations of USPAP.
6. On or about March 7th, 2006 and May 17th, 2006 respectively, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), Tex. Gov't Code Ann. Chapter 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature and

accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainants in both cases. Respondent's responses to both complaints were received.

7. The Enforcement Division concluded that the Respondent's appraisal reports violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

The Raindrop Property Appraisal Report

- a) Ethics Rule – Respondent communicated a misleading appraisal report;
- b) USPAP Standards 1-2(b) & 2-2(b)(ii) – Respondent failed to state the intended use in his report;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the improvement(s) description adequately because he did not disclose the age of the improvements;
- d) USPAP Standards 1-3(a) & 2-2(b)(ix) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic demand, physical adaptability of the real estate and market area trends;
- e) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale for his determination of the Raindrop property's highest and best use;
- f) USPAP Standard 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to use an appropriate method or technique to develop an opinion of the Raindrop property's site value;
- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for the Raindrop property;
- h) USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile accrued depreciations;
- i) USPAP Standards 1-1(a) & 1-4(b) – Respondent has failed to employ recognized methods and techniques correctly in his cost approach analysis;
- j) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately in his sales comparison analysis;
- k) USPAP Standards 1-1(a) & 1-4(a) – Respondent has not employed recognized methods and techniques correctly in his sales comparison analysis;

- l) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze all agreements of sale, options or listings current as of the effective date of his appraisal report for the Raindrop property;
- m) USPAP Standards 1-6(a) & (b) & 2-2(b)(ix) – Respondent has failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- n) USPAP Standard 1-1(a) – Respondent did not correctly employ recognized methods and techniques to produce a credible appraisal report for the Raindrop property;
- o) USPAP Standard 1-1(b) – Respondent failed to comply with USPAP because his report contained substantial errors of both omission and commission that significantly impact the Raindrop appraisal report;
- p) USPAP Standard 1-1(c) – Respondent failed to comply with USPAP because he provided appraisal services that were at the very least, careless or negligent when he failed to analyze and report neighborhood market trends;
- q) USPAP Standard 2-1(a) -- Respondent set forth the appraisal report in a manner that was misleading; and,
- r) USPAP Standard 2-1(b) – Respondent's report does not contain sufficient information to enable the intended users of the appraisal to understand the report properly.

The Kentucky Property Appraisal Report

- a) Ethics Rule – Respondent communicated a misleading appraisal report;
- b) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale for his determination of the Kentucky property's highest and best use;
- c) USPAP Standard 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to use an appropriate method or technique to develop an opinion of the Kentucky property's site value;
- d) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) -- Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for the Kentucky property;
- e) USPAP Standards 1-1(a) & 1-4(b) -- Respondent has failed to employ recognized methods and techniques correctly in his cost approach analysis;
- f) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately in his sales comparison analysis;

- g) USPAP Standards 1-1(a) & 1-4(a) – Respondent has not employed recognized methods and techniques correctly in his sales comparison analysis;
- h) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze all agreements of sale, options or listings current as of the effective date of his appraisal report for the Kentucky property;
- i) USPAP Standard 1-1(a) – Respondent did not correctly employ recognized methods and techniques to produce a credible appraisal report for the Kentucky property;
- j) USPAP Standard 1-1(b) – Respondent failed to comply with USPAP because his report contained substantial errors of both omission and commission that significantly impact the Kentucky appraisal report;
- k) USPAP Standard 1-1(c) – Respondent failed to comply with USPAP because he provided appraisal services that were at the very least, careless or negligent;
- l) USPAP Standard 2-1(a) – Respondent set forth the appraisal report in a manner that was misleading; and,
- m) USPAP Standard 2-1(b) – Respondent's report does not contain sufficient information to enable the intended users of the appraisal to understand the report properly.

8. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations or omissions of material facts as noted above for both the Raindrop property and the Kentucky property appraisal reports. This includes things such as, failing to analyze and disclose salient information from the agreement of sale, failing to analyze and report neighborhood market trends, use of inappropriate comparable sales and the omission of more appropriate and readily available comparable sales data.

9. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§155.1(a) and 153.20(a)(3) by failing to conform to USPAP in effect at the time of the Raindrop and Kentucky property appraisal reports.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451–1103.5535.

2. Respondent violated numerous provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§155.1(a) and 153.20(a)(3).

3. Respondent violated §153.20(a)(9) of the Rules of the Board by making material misrepresentations or omissions of material facts for both the Raindrop property and the Kentucky property appraisals.


Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent William Douglas Mitchell's certification be revoked.

Respondent, by signing this Agreed Final Order and agreeing to the revocation of his certification, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

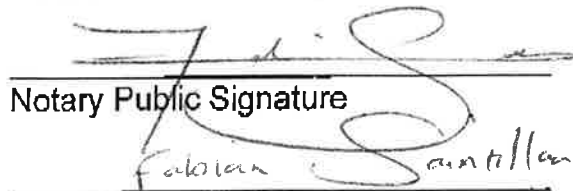
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

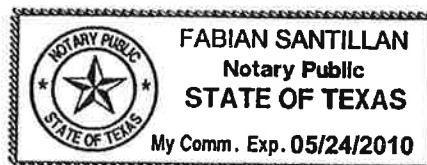
Signed this 20th day of December, 2007.


WILLIAM DOUGLAS MITCHELL

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 20th day of December, 2007, by WILLIAM DOUGLAS MITCHELL, to certify which, witness my hand and official seal.


Notary Public Signature

Fabian Santillan
Notary Public's Printed Name



Signed by the Commissioner this 8th day of February, 2008.

Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 29th day of FEBRUARY, 2008



Larry Koker, Chairperson
Texas Appraiser Licensing and Certification Board

Clinton P. Sayers